

# TERMS AND *CONDITIONS*

BY VISITING **DESTINYLUBIN.COM**, YOU ARE CONSENTING TO OUR TERMS AND CONDITIONS.

## USE OF THE SITE AND SERVICE.

To access this site you must be 18 years of age or older, Children under the age of 18 are prohibited from using this site. Information on this site and services are subject to change.

## ACCOUNT CREATION

In order to use the Service, you may be required to provide information about yourself including your name, email address, username and password, and other personal information. You agree that any registration information you give to DESTINY LUBIN & DESTINY FITNESS LLC is accurate, correct and up to date. You agree that you should not use any information other than your own and will not impersonate or use anyone else's information.

## LAWFUL PURPOSES

You may use the Site and Service for lawful purposes only. You agree to be financially responsible for all purchases made by you or someone acting on your behalf through the Site. You agree to use the Site and to purchase services or products through the Site for legitimate, non-commercial purposes only. You shall not post or transmit through the Site any material which violates or infringes the rights of others, or which is threatening, abusive, defamatory, libelous, invasive of privacy or publicity rights, vulgar, obscene, profane, or otherwise objectionable, contains injurious formulas, recipes, or instructions, which encourages conduct that would constitute a criminal offense, give rise to civil liability, or otherwise violate any law.

## REFUSAL OF SERVICE

The Services are offered subject to our acceptance of your order or requests. We reserve the right to refuse service to any order, person or entity, without the obligation to assign reason for doing so. No order is deemed accepted by us until payment has been processed. We may at any time change or discontinue any aspect or feature of the Site or Service, subject to us fulfilling our previous responsibilities to you based on acceptance of your payment.

## ORDER CONFIRMATION

We will email you to confirm the placement of your order and with details concerning product delivery. In the event that there is an error in this email confirmation, it is your responsibility to inform us as soon as possible.

## CANCELLATION POLICY

ALL SUBSCRIPTIONS ARE AUTO-RENEWAL AND WILL NOT BE DISCONTINUED UNLESS WE ARE ADVISED IN ADVANCE TO CANCEL. CANCELLATION NOTICES SHOULD BE SENT DIRECTLY TO [DESTINY@DESTINYLUBIN.COM](mailto:DESTINY@DESTINYLUBIN.COM)

## REFUNDS & RETURNS

No returns will be accepted 14 days after purchase.

## PRODUCT DESCRIPTION

We endeavor to describe and display the Service as accurately as possible. While we try to be as clear as possible in explaining the Service, please do not accept that the Site is entirely accurate, current, or error-free. From time to time we may correct errors in pricing and descriptions. We reserve the right to refuse or cancel any order with an incorrect price listing.

## **MATERIAL YOU SUBMIT TO THE SITE**

You shall not upload, post or otherwise make available on the Site any artwork, photos, or other materials (collectively "Materials") protected by copyright, trademark, or other proprietary right without the express written permission of the owner of the copyright, trademark, or other proprietary right, and the burden of determining that any Materials are not so protected rests entirely with you. You shall be liable for any damage resulting from any infringement of copyrights, trademarks, or other proprietary rights, or any other harm resulting from such a submission. For all Materials submitted by you to the Site, you automatically represent or warrant that you have the authority to use and distribute the Materials, and that the use or display of the Materials will not violate any laws, rules, regulations, or rights of third parties.

## **OUR INTELLECTUAL PROPERTY**

The Site and Service contain intellectual property owned by Destiny Fitness LLC, including trademarks, copyrights, proprietary information, and other intellectual property. You may not modify, publish, transmit, participate in the transfer or sale of, create derivative works from, distribute, display, reproduce or perform, or in any way exploit in any format whatsoever any of the Site or Service Content or intellectual property, in whole or in part, without our prior written consent. We reserve the right to immediately remove you from the Service, without refund, if you are caught violating this intellectual property policy.

## **CHANGED TERMS**

We may at any time amend these Terms and Conditions. Such amendments are effective immediately upon notice to you by us posting the new Terms and Conditions on this Site. Any use of the Site or Service by you after being notified means you accept these amendments. We reserve the right to update any portion of our Site and Service, including these Terms and Conditions, at any time. We will post the most recent versions to the Site and list the effective dates on the pages of our Terms and Conditions.

## **LIMITATION OF LIABILITY**

YOU AGREE THAT UNDER NO CIRCUMSTANCES SHALL WE BE LIABLE FOR DIRECT, INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY, OR ANY OTHER DAMAGES ARISING OUT OF YOUR USE OF THE SITE OR SERVICE. ADDITIONALLY, DESTINY LUBIN & DESTINY FITNESS LLC IS NOT LIABLE FOR DAMAGES IN CONNECTION WITH (I) ANY FAILURE OF PERFORMANCE, ERROR, OMISSION, DENIAL OF SERVICE, ATTACK, INTERRUPTION, DELETION, DEFECT, DELAY IN OPERATION OR TRANSMISSION, COMPUTER VIRUS, OR LINE OR SYSTEM FAILURE; (II) LOSS OF REVENUE, ANTICIPATED PROFITS, BUSINESS, SAVINGS, GOODWILL OR DATA; AND (III) THIRD PARTY THEFT OF, DESTRUCTION OF, UNAUTHORIZED ACCESS TO, ALTERATION OF, OR USE OF YOUR INFORMATION OR PROPERTY, REGARDLESS OF OUR NEGLIGENCE, GROSS NEGLIGENCE, FAILURE OF AN ESSENTIAL PURPOSE AND WHETHER SUCH LIABILITY ARISES IN NEGLIGENCE, CONTRACT, TORT, OR ANY OTHER THEORY OF LEGAL LIABILITY. THE FOREGOING APPLIES EVEN IF DESTINY

LUBIN & DESTINY FITNESS LLC HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN THE DAMAGES. IN THOSE STATES THAT DO NOT ALLOW THE EXCLUSION OR LIMITATION OF LIABILITY FOR THE DAMAGES, OUR LIABILITY IS LIMITED TO THE FULLEST POSSIBLE EXTENT PERMITTED BY LAW. IN NO EVENT SHALL DESTINY LUBIN & DESTINY FITNESS LLC CUMULATIVE LIABILITY TO YOU EXCEED THE TOTAL PURCHASE PRICE OF THE SERVICE YOU HAVE PURCHASED FROM DESTINY LUBIN & DESTINY FITNESS LLC, AND IF NO PURCHASE HAS BEEN MADE BY YOU Destiny Fitness LLC's CUMULATIVE LIABILITY TO YOU SHALL NOT EXCEED \$100.

## **THIRD-PARTY RESOURCES**

The Site and the Service contain links to third-party websites and resources. You acknowledge and agree that we are not responsible or liable for the availability, accuracy, content, or policies of third-party websites or resources. Links to such websites or resources do not imply any endorsement by or affiliation with DESTINY LUBIN & DESTINY FITNESS LLC You acknowledge sole responsibility for and assume all risk arising from your use of any such websites or resources.

## **INDEMNIFICATION**

You shall indemnify and hold us harmless from and against any and all losses, damages, settlements, liabilities, costs, charges, assessments, and expenses, as well as third party claims and causes of action, including, without limitation, attorney's fees, arising out of any breach by you of any of these Terms and Conditions, or any use by you of the Site or Service. You shall provide us with such assistance, without charge, as we may request in connection with any such defense, including, without limitation, providing us with such information, documents, records, and reasonable access to you, as we deem necessary. You shall not settle any third party claim or waive any defense without our prior written consent.

## **EFFECT OF HEADINGS**

The subject headings of the paragraphs and subparagraphs of this Agreement are included for convenience only and shall not affect the construction or interpretation of any of its provisions.

## **ENTIRE AGREEMENT; WAIVER**

This Agreement constitutes the entire agreement between you and DESTINY LUBIN & DESTINY FITNESS LLC pertaining to the Site and Service and supersedes all prior and contemporaneous agreements, representations, and understandings between us. No waiver of any of the provisions of this Agreement by DESTINY LUBIN & DESTINY FITNESS LLC shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by Destiny Lubin.

## **RECOVERY OF LITIGATION EXPENSES**

If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled.

## **SEVERABILITY**

If any term, provision, covenant, or condition of this Agreement is held by an arbitrator or court of competent jurisdiction to be invalid, void, or unenforceable, the rest of the Agreement shall remain in full force and effect and shall in no way be affected, impaired, or invalidated.

## **ASSIGNMENT**

These Terms and Conditions bind and inure to the benefit of the parties' successors and assigns. These Terms and Conditions are not assignable, delegable, sub licenseable, or otherwise transferable by you. Any transfer, assignment, delegation, or sublicense by you is invalid.